

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RANDY F. CONELL,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

8:20CV332

ORDER

Plaintiff's former counsel was granted leave to withdraw on February 1, 2022. (Filing No. 34). The order granting counsel's leave to withdraw gave Plaintiff until February 22, 2022 to either a) obtain the services of counsel and have that attorney file an appearance in this case; or (b) file a notice of intent to pursue this case without the assistance of counsel. Plaintiff was also warned that failure to comply with the court's order may result in a dismissal of Plaintiff's claims without further notice. (Filing No. 35). The order was mailed to Plaintiff. This mailing was not returned.

Plaintiff failed to comply with the court's order.

On March 4, 2022, a show cause order was mailed to Plaintiff by the clerk's office. The show cause order advised that Plaintiff had until March 25, 2022 to show cause why the court should not dismiss Plaintiff's claims for want of prosecution and without further notice. (Filing No. 36). This mailing was not returned.

Plaintiff moved to continue the deadline. The motion was granted. Plaintiff was given until May 2, 2022 to either a) obtain the services of counsel and have that attorney file an appearance in this case; or (b) file a notice of intent to pursue this case without the assistance of counsel. Plaintiff was again warned that failure to comply with the court's order may result in a dismissal of Plaintiff's claims without further notice. (Filing No. 38). The order was mailed to Plaintiff. This mailing was not returned.

On May 4, 2022, new counsel entered an appearance for Plaintiff. (Filing No. 41). And on November 8, 2022, the new counsel moved to withdraw. (Filing No. 54).

Plaintiff was given until November 29, 2022 to either a) obtain the services of counsel and have that attorney file an appearance in this case; or (b) file a notice of intent to pursue this case without the assistance of counsel. Plaintiff was again warned that failure to comply with the court's order may result in a dismissal of Plaintiff's claims without further notice. (Filing No. 55). The order was mailed to Plaintiff. This mailing was not returned.

Plaintiff did not comply. An order was entered setting a hearing for today at 9:00 a.m. to discuss whether Plaintiff intends to continue litigating this case. The court's order warned Plaintiff that his failure to appear for the call or to notify the court, prior to the scheduled conference, of his inability to appear may result in dismissal of Plaintiff's claims without further notice. The order was mailed to Plaintiff at his address of record. The mailing was not returned as undeliverable.

The conference was held today. The court waited ten minutes for Plaintiff to either appear or call my chambers explaining any difficulty he was having in joining the conference call. Plaintiff did not attend the conference call and has not contacted my chambers to explain his absence. (Filing No. 62).

Accordingly,

IT IS RECOMMENDED to the Honorable Robert F. Rossiter, Jr., Chief United States District Judge, pursuant to 28 U.S.C. § 636(b), that Plaintiff's claims be dismissed for want of prosecution.

The parties are notified that failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation.

IT IS FURTHER ORDERED: The clerk shall mail a copy of this recommendation to Plaintiff at the address of record, Randy F. Conell, 302 Crest Road, Papillion, NE 68046.

Dated this 8th day of December, 2022.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge